

**Borough of Wind Gap
Wind Gap, Pennsylvania 18091
610.863.7288**

Zoning Hearing Board Legal Notice

The Wind Gap Zoning Hearing Board will hold a public hearing Thursday, September 13th, 2012, at 7:30 p.m. at the Wind Gap Borough Hall, Council Chambers, 29 Mechanic Street, Wind Gap, PA to hear the following:

1. Case No. 01-2012

The application of the Borough of Wind Gap, Owner, of said property located at Lehigh Avenue, for a Variance request to Sections 703.C.1, 703.A.4, 703.F.1, 404.D, 306.B, 306.E, and 306.F of the Zoning Ordinance. It is the intent of the owner, Wind Gap Borough, to subdivide their existing parcel into three (3) lots. Lot 1 will be used to create a municipal parking lot, and Lots 2 & 3 will remain for residential use. Lots 2 & 3 will front on and access from Lehigh Avenue while Lot 1 will front on and access from School Alley. The owner is requesting the zoning variances for Lot 1.

This property is in the R-10 zoning district. Parcel ID: E8SW4B780638E

Proof of publication requested:

Publish: Monday, August 27th, 2012

Publish: Monday, September 3rd, 2012

ZONING HEARING BOARD
BOROUGH OF WIND GAP
NORTHAMPTON COUNTY, PENNSYLVANIA

APPEAL NO.: 01-2012

APPELLANT: Wind Gap Borough

LOCATION OF
PROPERTY: Lehigh Avenue, Wind Gap, Northampton County,
Pennsylvania

OWNERS: Wind Gap Borough

NORTHAMPTON
COUNTY UNIFORM
TAX PARCEL NO.: E8SW4B-7-8

OPINION

An Appeal in the above matter was filed by the Appellant, Wind Gap Borough seeking a variances as set forth in the Borough Engineer's letter dated August 14, 2012 attached hereto, made and part hereof and marked as Exhibit "1".

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Pursuant to proper legal notice, a public hearing in connection with this Appeal was held on September 13, 2012, at 7:30 p.m. in Council Chambers, at Wind Gap Borough Hall, 29 Mechanic Street, Wind Gap, Northampton County, Pennsylvania.
2. Testimony and evidence were heard and received by Zoning Hearing Board members Sam Nittle and Robert Matlock.
3. The Zoning Officer Darlene Plank-Turlington was present and testified in regard to the application. Zoning Officer presented Zoning Hearing Board Exhibit "1" which contained the legal notice, a copy of the application for a variance, Northampton County Tax Records and Maps, and a list of the residents within Two Hundred (200')

Feet that were notified as required by the Wind Gap Borough Zoning Ordinance. The Zoning Officer also testified that the property was properly posted.

4. The subject premises is located at North Lehigh Avenue in the Borough of Wind Gap bearing Northampton County tax assessors designation E8SW4B-7-8. The subject premises is vacant land used in part as a parking lot with a lot size of .5776 acres.

5. The Borough Engineer prepared a letter dated August 14, 2012, which is attached to the zoning application, setting forth the variance relief requested under the Wind Gap Borough Zoning Ordinance. The letter of August 14, 2012 from the Borough Engineer is attached hereto, made a part hereof and marked Exhibit "1". The Borough is seeking relief from the design standards for off street parking facilities under Section 703.C.1 and Section 703.A.4, Section 703.F.1. In addition, the Borough is also seeking leave under the buffer yard provisions under Section 404.D. Further, the Borough is seeking a use variance under Section 306.B. Finally, the Borough is seeking relief from the certain lot area minimum lot requirements under Section 306.E and 306.F.

6. Testifying at the hearing on behalf of the Borough was George Hinton, Anthony Curcio and Brian Pysher.

7. At the hearing the Borough Engineer presented a subdivision plan for a three lot subdivision.

8. Brian Pysher from the Borough's Engineers office testified that the Borough Engineer prepared a subdivision plan and the application seeking a subdivision of the premises into three lots. Lot 2 has acreage of 9,000 square feet (.2204 acres) and is a proposed residential building lot. In addition Lot 3 is the acreage 9,600 square feet

(.2204 acres). The subdivision plan prepared for the Borough choose possible locations of the residential dwellings. Lot 1 on School Alley would be a municipal parking lot. This lot is 5,960 square feet (.13668 acres). The representatives of the Borough testified that this property more or less has been used informally over the years as a Borough parking lot. Lot 1 would remain a Borough parking lot. The Borough indicated that they plan to improve that lot with asphalt and lined parking spaces. There is also proposed on the plan buffer yard with shrubbery between the parking lot on Lot 1 and Lots 2 and 3.

9. A number of neighbors testified at the hearing. Testifying at the hearing were LeRoy Albanese, Eugene Albanese, Anna Pritchard and Marlin Werner. All questioned the proposed subdivision and stated their concerns with respect to selling the property for residential dwelling and loosing parking places within the Borough.

10. The Zoning Hearing Board is empowered to grant a variance under §804.E of the Wind Gap Borough Zoning Ordinance.

11. Under §804.E of the Zoning Ordinance, the Zoning Hearing Board is required to make certain requirements as follows:

- a. There are unique physical circumstances or conditions (including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical condition and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or district in which the property is located.
- b. Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance, and a variance is therefore necessary to enable the reasonable use of the property.
- c. Such unnecessary hardship has not been created by the Appellants.

- d. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- e. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

12. The Board finds that the subject premise does have unique physical circumstances and conditions which necessitate the granting of the variances to enable the use of the property.

13. The Board finds that because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity of the Zoning Ordinance, the variances necessary in order to reasonably use the property.

14. The Board further finds that the Appellant has not created unnecessary hardship.

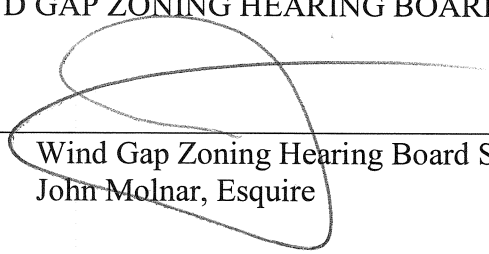
15. The Board finds that the variances will not alter the essential character of the neighborhood or district in that which the property is located nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare.

16. The variances will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

ORDER

The Appellant's request for variances as set forth in Exhibit "1" are hereby granted. The Zoning Hearing Board recommends that the Borough limit parking for vehicles in the proposed parking lot which is Lot 1 on the subdivision plan for a maximum of two hours.

WIND GAP ZONING HEARING BOARD

By:  Wind Gap Zoning Hearing Board Solicitor
John Molnar, Esquire

Dated: October 26, 2012

Exhibit “1”

Robert L. Collura
Civil Engineers and Surveyors

1087 Market Street
Bangor, PA 18013

Phone: (610) 588-5176, (610) 588-5820
Fax: (610) 588-4879, (610) 588-4830

August 14, 2012

Wind Gap Borough Zoning Hearing Board
29 Mechanic Street
Wind Gap, PA 18091

Dear Zoning Hearing Board members,

It is the intent of the owner, Wind Gap Borough, to subdivide parcel E8SW4B 7 8 into three lots. Lot 1 will be used to create a municipal parking lot, and Lots 2 & 3 will remain for residential use. Parcel E8SW4B 7 8 is in the R-10 zoning district and is located at Lehigh Avenue. Lots 2 & 3 will front on and access from Lehigh Avenue while Lot 1 will front on and access from School Alley. The owner is requesting the following variances for Lot 1.

- 1) 703.C.1 (Design Standards for Off Street Parking Facilities) – Minimum 16' aisle width for 45° angle parking.

An aisle width of 12' +/- is proposed.

- 2) 703.A.4 (Design Standards for Off Street Parking Facilities) – No parking area shall be designed to require or encourage parked vehicles to back into a public street in order to leave a parking space.

Proposed aisle width does not meet the minimum requirements of the ordinance; therefore a variance is being requested.

- 3) 703.F.1 (Design Standards for Off Street Parking Facilities) – Any parking area designed for use by four or more cars after dusk shall be adequately illuminated.

The area is illuminated by existing lighting located on adjoining properties.

- 4) 404.D Buffer Yards – 20' buffer yard is required.

A four foot buffer yard is proposed in lieu of the 20' required yard. Arborvitaes, spaced 4' on center, are proposed in the buffer yard to screen the residences from the parking facility.

306. R-10 Medium Density Single Family Residential District:

- 5) 306.B – Uses permitted by right.

A parking facility is not a use permitted by right.

Variance Request
Wind Gap Borough

6) 306.E – Lot area, width, building coverage, impervious surface coverage and height regulations.

The proposed Lot 1 exceeds the maximum impervious surface coverage and does not meet the minimum lot size.

7) 306.F – Minimum Yard Requirements

The minimum yard requirements are not feasible due to the small lot size. No building or structure is proposed on Lot 1. A covenant on the subdivision plan shall restrict Lot 1 from ever having a structure constructed on it and also restricts Lot 1 to a parking facility.

Sincerely,



For RLL

Robert L. Collura, PE